

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Appellant: Steve Golden Examiner: Julian W. Woo  
Serial No.: 10/715,797 Group Art Unit: 3773  
Filed: November 18, 2003 Docket No.: P0021729.02 / M190.321.101  
**Due Date:** **July 19, 2009**  
Title: APPARATUS AND METHODS FOR ANASTOMOSIS

**RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF**

**Mail Stop Appeal Brief – Patents**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir/Madam:

This communication is submitted in response to the Notice of Non-Compliant Appeal Brief mailed on June 19, 2009 and supports the Appeal Brief previously filed May 12, 2009, which was filed in support of the Notice of Appeal filed on March 12, 2009, appealing the final rejection of claims 64, 66-75, and 123-141 of the above-identified application as set forth in the Final Office Action mailed December 12, 2008.

The Notice identifies the perceived error of “Section V: Summary of claimed subject matter must identify and map all independent claims on appeal (76, 77, and 79) to specification by page and line number and drawings, if any.” In response, Appellant respectfully notes that the Appeal Brief requirements of a concise explanation applies to each of the independent claims involved in the appeal. 37 C.F.R. §41.37(c)(1)(v). Claims 76, 77, and 79 have been allowed; thus, it is Appellant’s understanding that claims 76, 77, and 79 are not involved in the Appeal in turn dictating that no summary is required.

Notwithstanding the above, in the interest of fully responding to the Notice, the "Summary" section has been replaced with this Response to clarify the status of independent claims 76, 77, and 79.

Appellant respectfully requests replacement of the "Summary of Claimed Subject Matter" section with the following replacement section.

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### **SUMMARY OF THE CLAIMED SUBJECT MATTER**

Independent claims 76, 77, and 79 have been allowed and are thus not subject of this Appeal. Pursuant to 37 C.F.R. 41.37(c)(1)(v), no summary of independent claims 76, 77, and 79 is required.

The subject matter of the pending independent claims involved in the appeal relates to methods for performing an anastomosis while maintaining blood flow within a vessel.

Independent claim 64 recites one method of the pending application, and is generally explained at page 12, line 13 – page 16, line 14 and Figures 2-4, 7, and 11-14. The method includes positioning a piercing end (202, 502) of a cannula (200, 500) so that it pierces through a vessel wall (312), with the cannula (200, 500) being introduced into the vessel wall (312) from the interior of the vessel. A graft (G) is attached to the vessel wall (312) adjacent to the cannula (200) while the piercing end of the cannula (200, 500) extends through the vessel wall (312). The cannula (200, 500) is removed.

Independent claim 66 recites another method of the pending application, and is generally explained at page 16, line 15 – page 23; line 23; page 28, lines 7-27; and page 30, lines 26-27 and Figures 12-14, 15A-D, 16A-E, 17A-D, 18A-E, and 20A-20F. The method includes forming an opening in a wall of a blood vessel (714) and removing a portion of the wall (734) where the opening was formed. An occluding member (730, 800, 850, 900, 950) is inserted into the opening formed in the vessel and occludes the opening. Additionally, the method includes connecting a graft (712) to the vessel at the opening after the step of forming the opening and removing the wall portion (734).

Independent claim 123 recites another method of the pending application, and is generally explained at page 12, line 13 – page 16, line 14 and Figures 2-4, 7, and 11-14. The method includes positioning a cannula (200, 500) so that it extends through a vessel wall. In this regard, the cannula (200, 500) is introduced into the vessel wall from the interior of the vessel. More particularly, the cannula (200, 500) is passed through another portion of the vessel wall into the interior of the vessel and then from the interior of the vessel through the vessel wall. A graft (G) is attached to the vessel wall adjacent to the cannula (200, 500) while the cannula (200,

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500) extends through the vessel wall. The method also includes removing the cannula (200, 500).

Independent claim 127 recites another method of the pending application, and is generally explained at page 14, line 17 – page 16, line 20 and Figures 6A-14. The method includes delivering a tubular member (602) having a first end and a second end into the interior of a vessel having a vessel wall. More particularly, the first end of the tubular member (602) is passed from the interior of the vessel through the vessel wall at a first vessel wall location. A graft (G) is attached to the first vessel wall location adjacent to the first end of the tubular member (602), and the tubular member (602) is removed.

Independent claim 128 recites another method of the pending application, and is generally explained at page 14, line 17 – page 23, line 23; page 28, lines 7-27; and page 30, lines 26-27 and Figures 6A-14, 15A-D, 16A-E, 17A-D, 18A-E, and 20A-20F. The method includes delivering a tubular member (602, 704, 704') having a first end and a second end into the interior of a vessel having a vessel wall. The first end of the tubular member (602, 704, 704') is passed from the interior of the vessel through the vessel wall at a first vessel wall location. More particularly, tubular member (602, 704, 704') is passed through the vessel wall at a second location to deliver the first end of the tubular member (602, 704, 704') into the interior of the vessel before passing the first end of the tubular member (602, 704, 704') from the interior of the vessel through the vessel wall at the first vessel wall location. A graft (G, 712) is attached to an exterior of the vessel wall adjacent to the first end of the tubular member (602, 704, 704'), and the tubular member (602, 704, 704') is removed.

**REMARKS**

This is responsive to the Notification of Non-Compliant Appeal Brief mailed on June 12, 2009. Appellant has submitted a replacement “Summary of Claimed Subject Matter” section herewith to identify the status of all claims.

Any inquiry regarding this Communication should be directed to either Katrina Witschen at Telephone No. (763) 505-8418, Facsimile No. (763) 505-8436 or Timothy A. Czaja at

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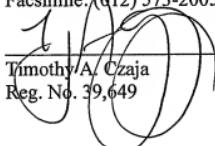
Respectfully submitted,

Steve Golden,

By their attorneys,

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Date: July 20, 2009  
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